

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

AUG 10 2018

Clerk, U S District Court  
District Of Montana  
Billings

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

CHRISTOPHER RAY METZGER,

Defendant/Movant.

Cause No. CR 17-46-BLG-SPW  
CV 18-97-BLG-SPW

ORDER

On June 15, 2018, Defendant Metzger wrote a letter to the Court concerning his sentence. The letter was filed as a motion under 28 U.S.C. § 2255 because it appeared to allege a claim of ineffective assistance of counsel. On June 22, 2018, the Court advised Defendant Metzger he could proceed under 28 U.S.C. § 2255 and required him to state his intentions on or before July 25, 2018. *See* Order (Doc. 38).

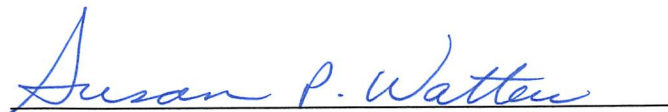
On June 28, 2018, the Court granted a motion by Metzger's counsel and entered an amended judgment to address the concerns Metzger had raised in his letter/motion. Metzger did not respond to the Order of June 22, 2018.

The Court concludes that Metzger does not intend to proceed at this time under 28 U.S.C. § 2255. His letter/motion will be dismissed without prejudice to any filing at a later time. *See, e.g., Slack v. McDaniel*, 529 U.S. 473, 487 (2000).

A certificate of appealability, if apposite, is denied because Metzger has not made a substantial showing that he was deprived of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, IT IS HEREBY ORDERED that Metzger's letter/motion (Doc. 37) is DISMISSED WITHOUT PREJUDICE. To the extent a certificate of appealability is apposite, it is DENIED. The clerk shall close the civil file by entering a judgment of dismissal.

DATED this 10<sup>th</sup> day of August, 2018.



Susan P. Watters  
United States District Court